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Agenda items 8 and 16 (a)

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS:

PREVENTION OF DISCRIMINATION AND PROTECTION OF CHILDREN: HUMAN RIGHTS AND YOUTH

Written statement submitted by the International League for the Rights and Liberation of Peoples, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[7 August 1995]

1. The Permanent Peoples' Tribunal, a parent body of The International League for the Rights and Liberation of Peoples is a forum for opinion. It was created for the promotion of the right of self-determination of peoples, and to fill, in the face of historical realities, lacunae of international law, and to stimulate the creation of substantive law in this field. The Tribunal held a session on "The violation of fundamental rights of children" in Italy from 27 March to 4 April 1995.

2. Children have continued to be victims of massacres in El Salvador, Guatemala and East Timor - wherever a policy of discrimination against minorities is implemented. It is children - in Zaire as in the Philippines - who once more become statistical indicators as to the extent to which the models of development based on corruption and dictatorship, albeit recognized and appreciated by the community of States, violate the fundamental rights of peoples.

3. It is children who die and are crippled by land-mines and toy bombs laid throughout Afghanistan. And it is again primarily the children who suffer the consequences of the United States interference in Nicaragua, where the guerrillas aimed directly at the destruction of education and primary health structures, and where the State's expenditure for the war takes up the entire social budget. In the mid-1980s the international scenario dramatically changed: it was the era of the debt crisis and of "structural adjustments". In the Berlin session (1988), on the policies of the International Monetary Fund and World Bank, it was noted that the role of children had changed. They no longer appear solely in the tragic reports of massacres or disappearances, but they also fill the statistics of the reports by international organizations as a measure of the increasing disparity between the wealthy and the poor; predictable victims, casualties tolerated by the neo-liberal economic development models requiring children to sacrifice their present (through unacceptably high mortality) and their future (through cuts in public expenditure for literacy and education). They are, in the words of a UNICEF report, indicators of the economic adjustment process.

4. Closely connected with the Berlin verdict of the Tribunal, which focused on economic mechanisms, is that of Bogota (1991) on impunity for crimes against humanity, which conducted a series of hearings involving the countries of Latin and Central America. It found that the structural adjustments required by the neo-liberal economic models efface the memory of an unrepentant impunity in favour of the free-market: children again become desaparecidos y olvidados, so as not to be a hindrance to the policies of the World Bank and the IMF.

5. The Tribunal, examining situations of oppression in given countries, as well as the world situation, has lately embellished its sentences with proposals and operative indications. The facts examined this session merited such a contribution. Hence:

THE TRIBUNAL FORMULATES THE FOLLOWING RECOMMENDATIONS:

(a) Facing serious acts such as the abduction of children with the intention of exploiting them through prostitution, production of pornographic material, and organ traffic, and in the light of evidence of children kept in conditions of servitude or slavery, the Tribunal stresses that it is an obligation of States on whose territories such crimes are committed to investigate and identify the offenders, and to apply proportionate punishments. It urges States to prosecute the authors of acts of violence against children, and to ensure that the punishment of offences be brought under the jurisdiction of ordinary tribunals when those implicated belong to the police or armed forces, as was documented in several countries, particularly Brazil;

(b) The Tribunal urges those States which already punish such criminal acts committed within their territory to punish the same acts committed by their nationals in other countries whenever the offenders can be apprehended in their territory;

(c) The Tribunal urges the United Nations General Assembly and other competent international organizations to adopt a convention recognizing the most serious violations of the fundamental rights of children, particularly their abduction and exploitation through prostitution, paedo-pornography, or organ traffic, as crimes against humanity: such an extension would render these crimes subject to the principle of universal criminal jurisdiction;

(d) The Tribunal urges States to observe and implement article 32 of the Convention on the Rights of the Child, regulating children's access to labour, in conditions consistent with the obligations arising from the observance of articles 24 (right to health), 26 (right to social security), 27 (right to an adequate standard of living), 28 and 29 (right to education) and 31 (right to rest and leisure), in such a way as to conciliate labour with education and professional training requirements. The Tribunal recommends that the World Bank, the IMF and other international or regional institutions refrain from financing projects or enterprises employing children in conditions below those provided for by international law and by the relevant national laws;

(e) The Tribunal requests that States ratify multilateral or bilateral agreements intended to prohibit the traffic of children for adoption, and to subordinate the validity of international adoptions to the minimal provisions established by mutual agreement by the States, in application of article 21 of the Convention on the Rights of the Child;

(f) Adhering to the proposal formulated within a project for a convention of the European Council and included in Norwegian and Swedish legislation, the Tribunal urges States which have already adhered to the Convention on the Rights of the Child to adopt a complementary protocol establishing an international ombudsman for the rights of the child to consider charges filed by individuals, associations or NGOs against States, organizations or individuals, and to collect the necessary evidence to verify all forms of violation of this Convention and all the other international instruments applicable to children;

(g) Furthermore, the Tribunal recommends that at as early an age as possible, children be directly represented within the organs making decisions which concern them, and that the democratic virtues which inspire the politics of those countries which have endorsed the Convention be extended to children, at the same time, taking into account that children ought not to be considered mere objects requiring protection, but a subject of rights, and recognizing that they are capable of understanding meaningful relationships. The Tribunal urges educators to consider the child's freedom and responsibility as paramount and urges States and local authorities to renovate cities and urban centres in order to improve their accessibility and safety, and to promote the development of an urban landscape of peaceful coexistence, to facilitate integration between adults and children in order to provide children with an environment conducive to their needs;

(h) The Tribunal urges the Committee on the Rights of the Child, established under article 43 of the Convention, to comply with the provisions of its mandate, and specifically to gather information from non-governmental sources on the living conditions of children, referring to independent experts and performing field investigations in the countries where reports of serious violations of the Convention are filed;

(i) The Tribunal urges the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities to proceed without further delay to a formal inquiry on organ traffic, specifically involving children;

(j) The Tribunal urges the Security Council to exercise its competence, as conferred by Article 26 of the Charter of the United Nations in regulating the arms trade and to restrict the purchase of weapons, which directly threatens the well-being of the population, particularly children, on the grounds of the financial burden it places on the States' budget;

(k) The Tribunal urges the International Court of Justice to assume a competence which so far it has avoided - namely, the assessment of acts and decisions of organs of the United Nations system to verify their conformity with international law: such assessment must be extended both to the Security Council's resolutions and to the decisions of the United Nations financial institutions, which must conform not only to their own statutes, but also to the principles and aims of the Charter, as well as to the rules of international law guaranteeing the protection of fundamental rights;

(l) Presented with precise and detailed information on the current disastrous consequences on families and children of the economic sanctions imposed on Iraq, the Tribunal stresses that such decisions cannot be taken without a rigorous assessment of their lawfulness with respect to the right to life and the health of the populations of the State against which the sanctions are directed;

(m) The Tribunal urges the United Nations to endorse an international convention to integrate the list of prohibited weapons according to the humanitarian law of war, stating a prohibition with respect not only to the use, but also to the manufacture and sale of land-mines, which are by definition non-discriminatory weapons, whose effects persist many years beyond the end of the conflict and whose main victims are children.

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